

H.R.1815

***One Hundred Ninth Congress
of the
United States of America
AT THE FIRST SESSION***

Begun and held at the City of Washington on Tuesday,
the fourth day of January, two thousand and five

An Act

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the `National Defense Authorization Act for Fiscal Year 2006'.

**SEC. 3112. ROCKY FLATS ENVIRONMENTAL
TECHNOLOGY SITE.**

(a) Definitions- In this section:

(1) ESSENTIAL MINERAL RIGHT- The term `essential mineral right' means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) FAIR MARKET VALUE- The term `fair market value' means the value of an essential mineral right, as determined by an appraisal performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) MAP- The term `map' means the map entitled `Rocky Flats National Wildlife Refuge', dated July 25, 2005, and available for inspection in appropriate offices of the United

States Fish and Wildlife Service and the Department of Energy.

(4) NATURAL RESOURCE DAMAGE LIABILITY CLAIM- The term `natural resource damage liability claim' means a natural resource damage liability claim under subsections (a)(4)(C) and (f) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) arising from hazardous substances releases at or from Rocky Flats that, as of the date of enactment of this Act, are identified in the administrative record for Rocky Flats required by the National Oil and Hazardous Substances Pollution Contingency Plan prepared under section 105 of that Act (42 U.S.C. 9605).

(5) ROCKY FLATS- The term `Rocky Flats' means the Department of Energy facility in the State of Colorado known as the `Rocky Flats Environmental Technology Site'.

(6) SECRETARY- The term `Secretary' means the Secretary of Energy.

(7) TRUSTEES- The term `Trustees' means the Federal and State officials designated as trustees under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(b) Purchase of Essential Mineral Rights-

(1) IN GENERAL- Not later than one year after the date of enactment of this Act, such amounts authorized to be appropriated under subsection (c) shall be available to the Secretary to purchase essential mineral rights at Rocky Flats.

(2) CONDITIONS- The Secretary shall not purchase an essential mineral right under paragraph (1) unless--

(A) the owner of the essential mineral right is a willing seller; and

(B) the Secretary purchases the essential mineral right for an amount that does not exceed fair market value.

(3) LIMITATION- Only those funds authorized to be appropriated under subsection (c) shall be available for the Secretary to purchase essential mineral rights under paragraph (1).

(4) RELEASE FROM LIABILITY- A natural resource damage liability claim under section 107 of the Comprehensive

Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) shall be considered to be satisfied by--

(A) the purchase by the Secretary of essential mineral rights under paragraph (1) for consideration in an amount equal to \$10,000,000;

(B) the payment by the Secretary to the Trustees of \$10,000,000; or

(C) the purchase by the Secretary of any portion of the mineral rights under paragraph (1) for--

(i) consideration in an amount less than \$10,000,000; and

(ii) a payment by the Secretary to the Trustees of an amount equal to the difference between--

(I) \$10,000,000; and

(II) the amount paid under clause (i).

(5) USE OF FUNDS-

(A) IN GENERAL- Any amounts received under paragraph (4) shall be used by the Trustees for the purposes described in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), including--

(i) the purchase of additional mineral rights at Rocky Flats; and

(ii) the development of habitat restoration projects at Rocky Flats.

(B) CONDITION- Any expenditure of funds under this paragraph shall be made jointly by the Trustees.

(C) ADDITIONAL FUNDS- The Trustees may use the funds received under paragraph (4) in conjunction with other private and public funds.

(6) EXEMPTION FROM NATIONAL ENVIRONMENTAL POLICY ACT- Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) ROCKY FLATS NATIONAL WILDLIFE REFUGE-

(A) TRANSFER OF MANAGEMENT

RESPONSIBILITIES- The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107-107) is amended--

(i) in section 3175--

(I) by striking subsections (b) and (f);
and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking `section 3175(d)' and inserting `section 3175(c)'.

(B) BOUNDARIES- Section 3177 of such Act is amended by striking subsection (c) and inserting the following new subsection:

` (c) Composition-

` (1) IN GENERAL- Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map--

` (A) entitled `Rocky Flats National Wildlife Refuge';

` (B) dated July 25, 2005; and

` (C) available for inspection in the appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

` (2) EXCLUSIONS- The refuge does not include--

` (A) any land retained by the Department of Energy for response actions under section 3175(c);

` (B) any land depicted on the map described in paragraph (1) that is subject to one or more essential mineral rights described in section 3112(a) of the National Defense Authorization Act for Fiscal Year 2006 over which the Secretary shall retain jurisdiction of the surface estate until the essential mineral rights--

` (i) are purchased under subsection (b) of such section; or

` (ii) are mined and reclaimed by the mineral rights holders in accordance with requirements established by the State of Colorado; and

` (C) the land depicted on the map described in paragraph (1) on which essential mineral rights are being actively mined as of the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 until--

` (i) the essential mineral rights are purchased; or

` (ii) the surface estate is reclaimed by the mineral rights holder in accordance with requirements established by the State of Colorado.

` (3) ACQUISITION OF ADDITIONAL LAND-

Notwithstanding paragraph (2), upon the purchase of the mineral rights or reclamation of the land depicted on the map described in paragraph (1), the Secretary shall--

` (A) transfer the land to the Secretary of the Interior for inclusion in the refuge; and

` (B) the Secretary of the Interior shall--

` (i) accept the transfer of the land; and

` (ii) manage the land as part of the refuge.'.

(c) Funding- Of the amounts authorized to be appropriated to the Secretary for the Rocky Flats Environmental Technology Site for fiscal year 2006, \$10,000,000 may be made available to the Secretary for the purposes described in subsection (b).